

## **REMARKS**

Claims 1-20 are pending in this application. In the Office Action, Claims 1-9, 11-16 and 18 were rejected under 35 U.S.C. §103 as being unpatentable over U.S. published patent application 09/972,991 (Wan, et al.) in view of U.S. published patent application 09/906,195 (Zhou, et al.). Claims 3, 7, 9, 10, 11, 15 and 17 were rejected under the doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 2, 5 and 7 of copending application no. 09/963,258. Claims 19 and 20 were rejected under 35 U.S.C. §112 as being indefinite; however, neither of these claims was rejected over the prior art. The Examiner, in the Office Action, also objected to the drawings and to the specification.

For the reasons discussed below, the rejection of Claims 1-9, 11-16 and 18 under 35 U.S.C. §103 is respectfully traversed because Wan, et al. is not prior art as to this application. The rejection of Claims 19 and 20 under 35 U.S.C. §112 is also respectfully traversed. To address the rejection of Claims 3, 7, 9, 10, 11, 15 and 17 under the doctrine of obviousness-type double patenting, Applicants are submitting herewith a Terminal Disclaimer. The drawings and the specification are being amended to overcome the objections raised by the Examiner.

More specifically, Applicants are submitting herewith a Declaration under 37 C.F.R. §1.131 showing that Wan, et al. is not prior art as to the present application.

The earliest possible date of Wan, et al. as a reference is October 10, 2001, which is its filing date. The Declaration submitted herewith shows, first, that the present invention was conceived prior to October 10, 2001, and second, that work was diligently done, from prior to October 10, 2001 to the filing date of the present application, October 12, 2001, to compete and file the patent application, which is a constructive reduction to practice of the invention claimed therein.

It may be noted that the application was sent to the inventors to sign prior to October 10, 2001. The application was signed and then filed with the Patent Office. As a result, the application document itself shows that the entire subject matter of the application, including all of the original claims, was conceived prior to October 10, 2001.

The Declaration of Drs. De Cusatis and Jacobowitz thus shows that the present invention was reduced to practice, in this country, before the earliest possible date of Wan, et al. as a prior art reference. Thus, Wan, et al. is not a prior art reference as to the present application. The Examiner is, hence, requested to reconsider and to withdraw the rejection of Claims 1-9, 11-16 and 18 under 35 U.S.C. §103.

Applicants are also submitting a Terminal Disclaimer. It is believed that this Terminal Disclaimer fully addresses the rejection of Claims 3, 7, 9, 10, 11, 15 and 17 under the doctrine of obviousness-type double patenting, and the Examiner is respectfully asked to reconsider and to withdraw this rejection of these claims.

The rejection of Claims 19 and 20 under 35 U.S.C. §112 is respectfully traversed. Claims 19 and 20 are dependent from Claim 18. Claims 18-20 describe two dither sources – a first dither source in Claim 18, and a second dither source in Claim 19. However, these claims describe only one dither signal – the dither signal set forth in the first subparagraph of Claim 19, which subparagraph describes “a second dither source for generating a dither signal.” It is thus clear that the reference in Claims 19 and 20 to “the dither signal” refers to that one dither signal set forth in Claim 19. Accordingly, Claims 19 and 20 are clear and definite and fully comply with the requirements of 35 U.S.C. §112, and the Examiner is also asked to reconsider and to withdraw the rejection of these claims under 35 U.S.C. §112.

With respect to the drawings, Applicants are taking this opportunity to correct informalities in Figures 4 and 7. In the lower left of Figure 4, “34” is being changed to “30,” which generally identifies the duplex link shown in Figure 4. In Figure 7, “111” is being changed to “110” to identify the bandpass filter.

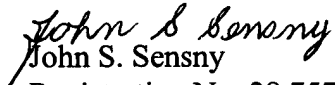
The specification is also being amended to overcome the Examiner’s objections. In particular, the full terms have been added for various acronyms on pages 6 and 7. Thus, ADF stands for “add/drop filter,” OCLD represents “optical card for laser/detector,” OCM represents “Optical channel monitor,” and OCI stands for “optical channel interface.” In addition, as the Examiner suggested, on page 7, line 30, “multiplexing filter” is being changed to “demultiplexing filter.”

In view of these changes to the drawings and the specification, the Examiner is asked to reconsider and to withdraw the objections to the drawings and the specification.

It is believed that the foregoing discussion and the Declaration and Disclaimer submitted herewith fully address all the rejections of and objections to the application. The Examiner is, thus, respectfully requested to reconsider and to withdraw the objections to the specification and the drawings. The Examiner is further asked to reconsider and to withdraw the rejection of Claims 1-9, 11-16 and 18 under 35 U.S.C. §103, the rejection of Claims 1, 2, 5 and 7 under the doctrine of obviousness-type double patenting, and the rejection of Claims 19 and 20 under 35 U.S.C. §112, and to allow Claims 1-20.

If the Examiner believes that a telephone conference with Applicants' Attorneys would be advantageous to the disposition of this case, the Examiner is asked to telephone the undersigned.

Respectfully submitted,

  
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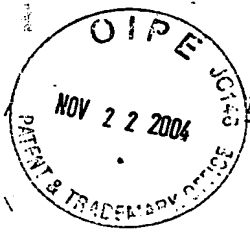
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Enclosures: Two (2) Annotated Sheets of Drawings;  
Two (2) Replacement Sheets of Drawings; and  
Declaration under 37 C.F.R. §1.131, including Exhibits A and B.

**IN THE DRAWINGS:**

Applicants submit Replacement and Annotated Sheets for Figures 4 and 7. Applicants respectfully request that new Figures 4 and 7, submitted herewith be substituted for the originally filed Figures 4 and 7.



ANNOTATED SHEET

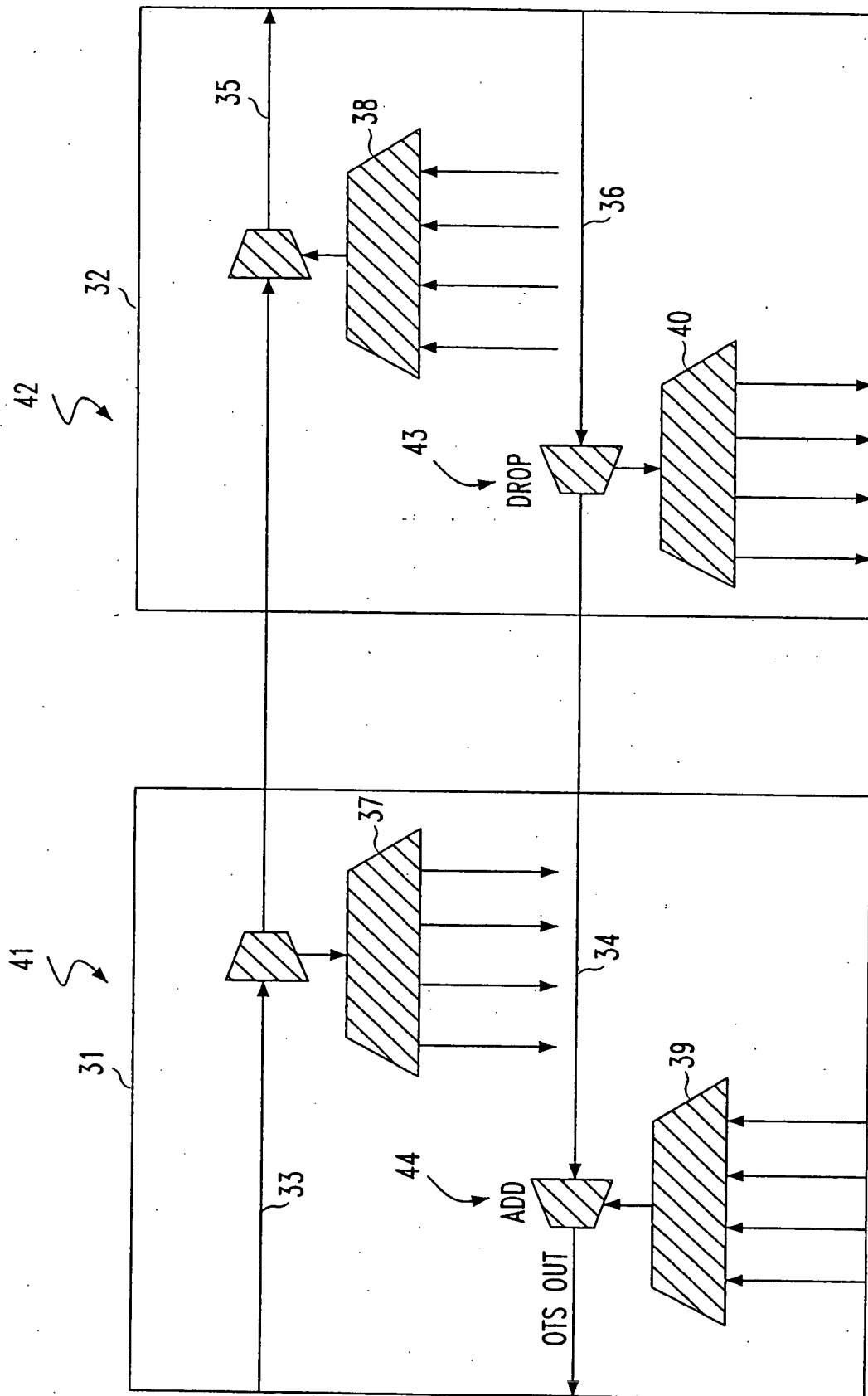


FIG. 4

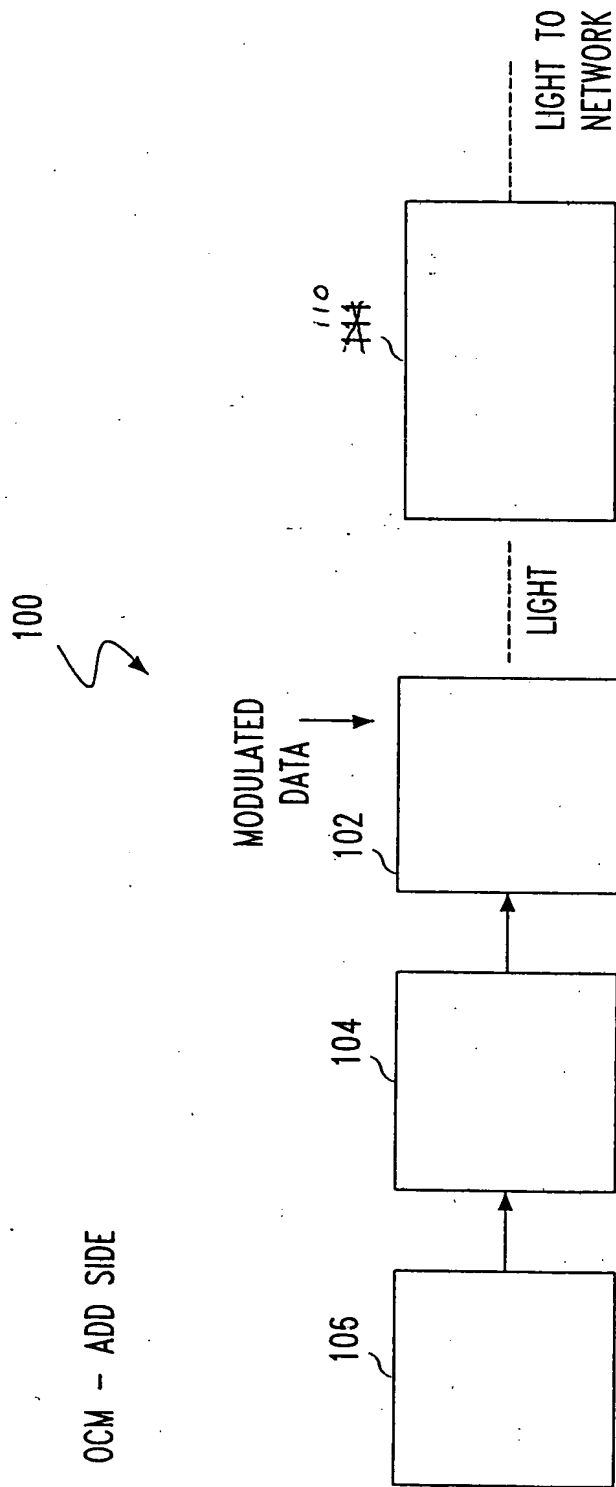


FIG. 7